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Kennedy Alternate on Telecommunication Rules Focuses on Consumer Power Instead of Litigation

California Public Utilities Commissioner Susan Kennedy unveiled a more focused version of the "Consumer Bill of Rights" today that gives consumers more power in the marketplace instead of micromanaging the industry and inviting endless litigation. The Kennedy plan would replace a costly proposal before the Commission that would impose comprehensive new regulations on the telecommunications industry in California, stifling investment and threatening jobs.

Kennedy's plan strengthens existing laws designed to ensure consumers receive information about telecommunications products and services by requiring that carriers inform potential customers of a full range of options – including the least cost plan that fits the customer's request as well as plans that do not require entering into long-term contracts. Both wireline and wireless providers would be covered by the new rules.

"The single most important tool a consumer can have to protect him- or herself is the power to say 'No,'" Kennedy said. "These rules are designed to empower consumers to protect themselves."

In addition to requiring all carriers to abide by provisions that protect consumers against "slamming" and "cramming," where carriers change a customer's service provider or add products to their account without their consent, the Kennedy plan gives customers the benefit of the doubt in disputes over charges. If the customer says a charge was unauthorized, it is assumed to be unauthorized unless the company proves otherwise.

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For wireless customers, the plan also mandates a minimum 14-day trial period for new service with no early termination fee. A growing number of carriers are offering services with no contracts at all, and some offer longer trial periods voluntarily. This rule ensures that all customers, regardless of carrier, will have an opportunity to test the phone service and coverage before being locked into a contract or paying an early termination fee.

The plan also mandates that wireless carriers inform customers of the availability of service plans that do not require signing a contract, such as pre-paid, pay-as-you-go, or monthly plans. These contract-free options are critical for customers who want to test the phone service for longer than the 14-day trial period. This would be the first such requirement of its kind in the nation.

"This plan avoids the incredibly costly effort to micromanage every interaction between customers and companies by giving consumers the critical tools they need to make decisions on their own," Kennedy said.

Kennedy Plan Avoids $2.3 Billion in Costs and Job losses

Other proposals before the Commission would mandate a detailed, one-size-fits-all set of rules on all carriers regardless of how different they are in technology, rate structure, billing system or the services offered. It would require substantial changes to a company's computerized billing systems, and reduce the ability of wireless companies to subsidize the cost of handsets for customers. Information on the total economic impact of one-size-fits-all rules are that it could cost California businesses and consumers more than $2.3 billion – increasing wireless phone bills by 10% on average and increasing the cost of new cell phones.

"By law, the PUC is supposed to analyze the economic impact of new regulations before we enact them. There is not much economic data in the record to tell us what these new regulations would cost, but we used what we had to develop the most effective tools for consumers and do the least harm to California's economy as possible," Kennedy said.

The CPUC began developing these consumer protection regulations after receiving complaints on wireless services in 1998 and 1999. Commission staff recommended a comprehensive new set of rights for telecommunications consumers as a result. Complaints against wireless carriers have substantially declined since 1999. In fact, while the number of wireless subscribers in California increased by 14% from 2002 to 2003 the rate of complaints decreased by 47% during the same period, according to data collected by Commission staff.

"The wireless telecommunications industry is the most intensely competitive industry in the world right now. Customers are being offered new products and services every day. Consumer complaints are dropping. Regulators have a responsibility to tread carefully and focus only on real problems, and that's what my plan does," Kennedy said.

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For more information on Commissioner Kennedy's Alternate, please contact: Ross LaJeunesse, Chief of Staff to Commissioner Kennedy, at (415) 703-3700.

Additional protections in the Kennedy plan:

Mandatory Disclosure Requirements –

- Providers of basic telephone service carriers must provide residential and small business customers with the following information:
  - How to access emergency services by using 911
  - Information on federal and state privacy laws, including the “Do Not Call Lists”
  - Availability of Universal Lifeline Telephone Service for low-income residential consumers
  - Accessibility information for non-English speaking and deaf and disabled customers
  - Information on Caller-ID blocking
  - Information on blocking pay-per-call services such as 976-numbers
  - Information on restricting toll-calling

- Wireline carriers must provide information regarding the least expensive service plans that are responsive to the customer’s inquiries.

- Wireless carriers must provide information on the availability and cost of pay-as-you-go or other service plans that do not require signing long-term contracts.

Service Authorization and Changes

- Written Confirmation - Carriers must provide the customer with a written confirmation of the order, including all terms and conditions agreed to, either at the point of sale or within 7 business days after the order is accepted.

- Trial Period for Wireless - Wireless carriers must provide at least a 14-day trial period where a customer can take home the service plan information and “test drive” the phone service. If a customer cancels the contract within the trial period and returns the phone as required, they will not be subject to an early termination fee.

- $25 Credit for Missed Appointments – The carrier must offer no longer than a four hour window for installation or repair appointments. If a carrier misses a scheduled appointment and fails to notify the customer the day before, they must provide the customer with a minimum $25 credit on the customer’s bill.

- Carriers cannot make material changes to contracts without reasonable notice and allowing consumers to end the contract without penalty.

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Billing and Service Termination

- All carriers bills must be clearly organized as required by the Federal Truth in Billing Act.
- Charges from multiple carriers must be listed separately and the carrier identified.
- Bills must note the minimum payment required to avoid disconnection of basic or single-line business service.
- Carriers are not permitted to identify "regulatory recovery fees" or any discretionary fees that are not remitted to government entities as "taxes".
- Carriers cannot apply late fees from the date payment is received.
- Carriers may not collect late charges or penalties while a billing dispute is being investigated. If the subscriber prevails, no late charges will apply.

911 Emergency Services

- All carriers must provide 911 emergency services. No carrier may terminate access to 911 emergency services for non-payment.
- Wireless carriers must provide 911 service in accordance with FCC orders, to the extent technologically feasible. State law forbids wireless carriers from charging airtime or other fees for 911 calls.

This is not a comprehensive list of the rules in Commissioner Kennedy's alternate. For a complete copy of the Kennedy Alternate Rules Governing Consumer Protection contact Commissioner Kennedy's office: (415) 703-3700 or visit the CPUC website (may not be posted immediately) WWW.CPUC.CA.GOV.

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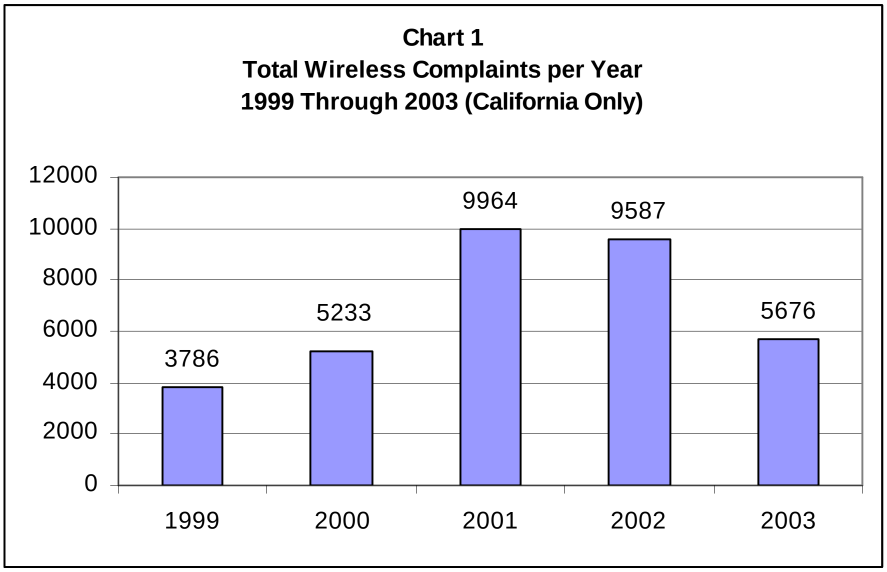
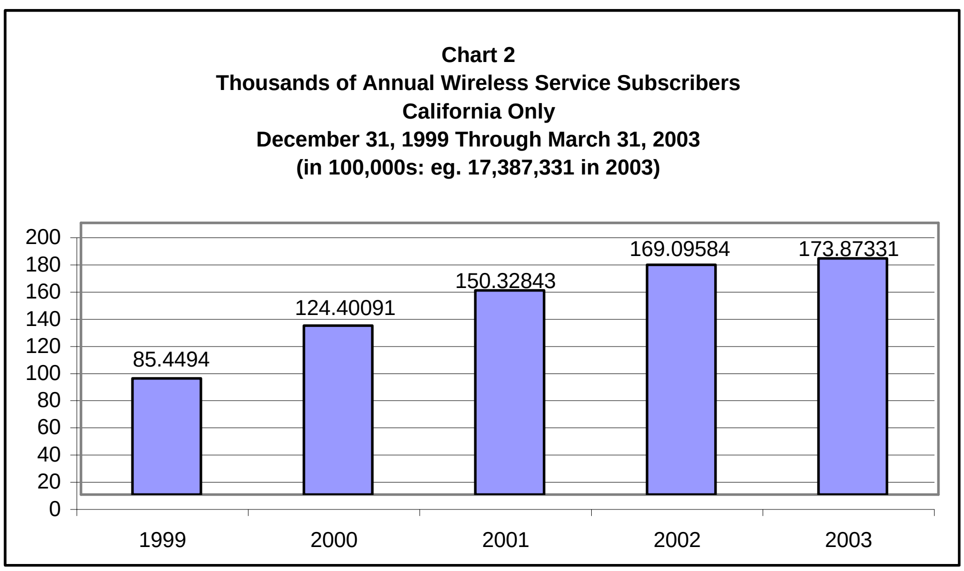
Annual Telco Wireless Service Complaint Data Summary

(1999 – 2003)



NOTES: 1. Data supplied by Consumer Affairs Branch of the CPUC.
2. The complaint number shown for 2003 was annualized from nine months' data (January through September, 2003) as follows: 4,257 complaints/9 months x 12 months = 5,676 annualized.



NOTES: 1. 1999 Data taken from state specific statistics in Table 13 of the FCC report entitled Local Competition: Status as of December 31, 2002, published June 2003. 2000 Through 2003 data compiled from Figure 3.28 on page 32 of the CPUC report entitled The Status of Telecommunications Competition in California – Third Report For the Year 2003.
2. Subscribership shown for 2003 is as of March 31, 2003; prior years' subscribership is as of December 31.

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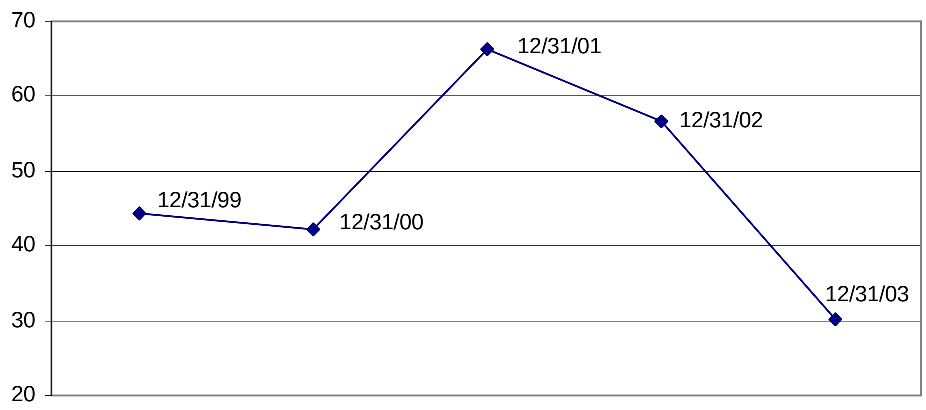
Chart 3
Wireless Service Complaint Rate Trend
1999 Through 2003 (California Only)
(complaints per 100,000 service subscribers)



NOTE: For each year-end point shown, complaint rates were calculated by dividing the annual number of complaints reflected in Chart 1 by the total year-end number of wireless service subscribers shown in Chart 2. In order reconcile the March 31 2003 subscribership level shown in Chart 2 with the annualized 2003 complaint number taken from Chart 1, the Chart 2 data was projected to year-end 2003 by taking the change in total subscribership between year-end 2002 and March 31, 2003, dividing that value by three (months), then multiplied that value by 12 (months), and finally adding the result to the subscribership level shown for year-end 2002 in Chart 2.

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